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While the chapter on wages and ability is thus open to serious criticism, it would, perhaps, be unfair to criticize it without speaking of the high merit of the remainder of the work. Professor Moore has drawn interesting and valid conclusions in the other chapters of the book, — correlations which support theoretical deductions hitherto without statistical foundation. Professor Moore has really made a new departure in economic science. He has introduced a movement that will ultimately demand a verification of theory by actual data, which in turn will be a first step toward the concrete application of economic laws to practical ends, based as they will be not on theory alone, but on fact.

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THE PENNSYLVANIA STATE RAILROAD COMMISSION

In the several states of the United States "between 1902 and 1908 over 800 distinct provisions were enacted to regulate purely state traffic, eight new commissions were created, and seven of the thirty-one already in existence were re-organized";¹ leaving only seven states in the union without a public service commission of some kind. One of the eight newly formed commissions was in Pennsylvania, where Governor Stuart signed the creating act on May 31, 1907. Pennsylvanians had felt for some time that the railroads were abusing their powers, and the legislature had attempted a few years before to lessen railroad charges by imposing a flat two-cent passenger rate. When this law was declared unconstitutional, different means of check were found to be necessary. The legislature went into session pledged to create a commission, and the act of 1907 was the result.

¹ G. G. Huebner, in *Annals American Academy*, July, 1908, p. 138.

Altho almost the entire trend of recent legislation had been to increase and strengthen commission power, Pennsylvania legislators went back to the old Massachusetts form and established a commission with powers merely of investigation and recommendation. It is composed of three commissioners appointed by the governor with the senate's consent, to continue in office for five years and to receive salaries of \$8000 a year. These appoint, to serve at their pleasure, an attorney, a secretary, a marshal, and all experts needed for thoro investigation. They are granted wide scope, their power extending over all corporations transporting freight or passengers by rail or water, over pipe line companies, express, telephone, and telegraph companies. They may inquire into the business and management of common carriers and investigate all matters incident to the performance of their public duties and their compliance with charters and state laws. Any aggrieved person or corporation may file a complaint with the commission, whose business it is to investigate, hold a formal hearing if necessary, and award its decision in the form of a recommendation. Its power of recommendation is extended to rates as well as to management and accommodation. Severe penalties are provided for refusal to show books or to testify. The commission may also make investigation of cases at its own volition, and is required to do so in case of accidents, to determine the cause and to recommend measures preventing a repetition.

As far as powers of investigation and advice go, the commission is all that could be desired. If, however, its recommendation is disobeyed or disregarded, its duty is merely to certify the fact to the Attorney General and Secretary of Internal Affairs, who take action as they see fit. The expectation is, of course, the same as had been entertained for the Massachusetts, Rhode Island, and Connecticut Commissions: public opinion is to force the carriers to submission.

When the Pennsylvania Commission organized in January, 1908, the governor's appointees were Nathaniel Ewing, chairman, and Charles Mann and John Y. Boyd, associates.

The places of the last two have since been taken by Milton J. Brecht and S. W. Pennypacker. Mr. Ewing has been a member of the bar for forty-one years and was made President of the Pennsylvania Bar Association in 1903. He has been counsel for various corporations, among them the Pennsylvania Railroad Company, and has been a Director of the West Virginia and Pennsylvania Telegraph and Telephone Company. Thus he has obtained his knowledge of common carriers at first hand. Milton Brecht was formerly superintendent of schools in Lancaster County. Mr. Pennypacker is ex-governor of the state.

The new commissioners discovered 1440 corporations under their jurisdiction and doing active work as public service corporations. They began at once to receive complaints dealing with sanitary conditions, overcharges, poor station facilities, insufficient service, and discrimination. A great number of these cases were promptly settled by correspondence, and of the others demanding more formal hearings and recommendations all have been settled except two, in which the recommendations have been disobeyed by the carriers.

Among the greater things that they have investigated and reported upon are forest fires and their prevention; the canal abandonment in Pennsylvania and its results; telephone and telegraph rates; the Pittsburg and Philadelphia electric service (resulting in both cases in marked improvement according to recommendations); and regulations of boiler construction and inspection (minimizing railroad accidents resulting from defective boilers). In each of these cases the investigation has been thoro, the recommendations specific, minute, and scientific. Experts were engaged and given full opportunity. The common carriers involved also gave their assistance in each instance and in most cases gladly agreed to the recommended improvements.

All parties are beginning to acknowledge the need and justice of commission regulation. The question is no longer whether a state shall have a commission; it has become a question of whether advisory or mandatory. Is the advisory

commission the best form for Pennsylvania? The Massachusetts Railroad Commission, still mainly advisory, has been generally conceded to be effective. Founded in 1869, it has been in active service for more than forty years and has during that entire time had hardly a serious clash with the railway management. Public opinion has accomplished there all that has been expected of it. But are the conditions of the two states similar? I believe they are not. To begin with, Massachusetts is a smaller state, and the problems are less large than in a state of Pennsylvania's size. The Massachusetts Commission has grown up with the railroads, has been able to see the problems as they have arisen, and the railroads have learned to respect its decisions. The Pennsylvania Commission was formed after the public service corporations had become firmly entrenched, and after the problems had become infinitely complex. The public served in Massachusetts consists in a great measure of stockholders also, and their interests on one side balance those on the other.

The conditions in Pennsylvania are very different. When the bill creating the commission was under discussion in the legislature there were requests for definite restriction of railway action, which were answered by the statement that these laws could better be passed later at the suggestion of the commission. When its first annual report was presented to the governor, the commission asked that the following laws be passed: (1) a law permitting a private railroad to join a public one, to obviate the necessity of incorporating private lines; (2) a law punishing trespassers on the right of way of common carriers; (3) a law compelling carriers to notify the commission of any intention of increasing their capitalization, and providing that such an increase without this notification or against the commission's advice be invalid; (4) a law allowing the commission to recommend safety appliances to be used at all grade crossings of public highways over common carriers. Bills have been drawn up in due form by the commissioner's attorney and the plea for their passage has been repeated in each annual report. They still remain unpassed.

Two recommendations have been disregarded, one by the Pennsylvania and one by the Baltimore and Ohio Railroad Company. There is no compelling reason why others should not be. The commission itself, in the report for 1910, asks for an amendment to the creating law defining the force of a recommendation, and suggests that it be given the force of a court decision. The original bill as introduced into the House contained something of this idea, but it was weakened in subsequent readings. If this request of the commissioners were granted, the commission would immediately lose its purely advisory nature. The body itself realizes that it needs more power.

There seems to have been fear in the legislature that the commission was being granted executive, legislative, and judicial powers all together. But why should not this be so? As the Secretary of the New York Commission writes: "The theory of the public service commission statutes is that certain power of control over public service corporations formerly vested in the legislature is delegated by the legislature to the commission to be administered in accordance with certain very general rules established by the legislature. The authority of the commission is therefore legislative and administrative in character, and there is no more reason why its work should be of merely an advisory nature than that an act of the legislature or an ordinance of the Board of Health should be in the form of a recommendation to be carried out at the option of the parties affected."

Pennsylvania's experience may prove to be like that of Iowa, where an advisory commission was in existence for ten years. In three years no recommendation was disobeyed; it was successful in many minor ways. "But it failed just where control was most needed. It was powerless to check . . . discrimination."¹ Wisconsin experienced the same difficulty after 1876. "It is needless to say that the railroads were little interfered with in matters which vitally concerned the industrial interests of the state."² The original

¹ F. H. Dixon, *State Railroad Control*, p. 131.

² F. H. Dixon, in *Political Science Quarterly*, vol. 20, p. 684.

New York Commission also found its recommendations frequently disobeyed, and itself asked for power to apply to the courts for writs of mandamus.

What the future will bring remains to be seen. For the present, Pennsylvania has what may be called the old-fashioned type of regulating body. Perhaps it will follow in the end the example of the more progressive states,—among which may be ranked now not only Wisconsin, but the great neighbor and rival, New York,—and establish a commission with more stringent powers.

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